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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/828,290

04/21/2004

Rik Swusten

0038-0435PUS1

4791

2292 7590 03/02/2007
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EXAMINER

LAMB, CHRISTOPHER RAY

ART UNIT

PAPER NUMBER

2627

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
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3 MONTHS

03/02/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/02/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/828,290

Applicant(s)

SWUSTEN, RIK

Examiner

Christopher R. Lamb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/12/06</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fukuda et al. (US 6,490,236).

Regarding claim 1:

Fukuda discloses:

A method of reading audio data from a storage medium, comprising the steps of:
reading the audio data, which are divided into a plurality of data units, from the medium (column 7, lines 5-40);

detecting an error flag of each of the data units so as to check if a reading error exists in each of the data units or not (the FLGs: column 7, lines 5-40);

rereading the audio data from the medium and storing the audio data of the data units, in which no reading errors exist, if the reading error exists in at least one of the data units (column 6, lines 5-25; column 7, lines 5-40);

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repeating said rereading-and-storing step prescribed times (column 7, lines 5-40); and

combining the stored audio data of the data units, in which no reading errors exist, so as to reproduce the recorded audio data (column 6, lines 25-35; column 7, lines 5-40).

Regarding claim 2:

In the method of Fukuda the stored audio data of the data units, in which no reading errors exist, and the read audio data of the data unit, in which a reading errors exists, are combined so as to reproduce the recorded audio data if the reading error still exists in at least one of the data units after said rereading-and-storing step are repeated the prescribed times (column 7, lines 15-35).

Regarding claim 4:

In Fukuda data reading velocity is changed when the audio data are reread (column 6, lines 10-25).

Regarding claims 5, 6, and 8:

These claims are directed to an optical disk player corresponding to the method of claims 1, 2, and 4. All elements positively recited have been identified in the rejection of the earlier method claims. No further elaboration is necessary.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fakuda et al. (US 6,490,236) in view of Applicant's admitted prior art.

Regarding claim 3:

Fakudo discloses a method of reading audio data from an optical disk as discussed above.

Fakudo does not disclose wherein a size of each of the data units is one byte. Instead, in Fakudo the size of each data unit is one sector. However, the method of Fakudo is applicable to any size of data unit that has an error correcting code error flag (see, for example, the general introduction of column 2, lines 5-30).

Applicant's admitted prior art discloses that in one type of cross interleaved Reed-Solomon code, an error correcting code is added to each byte of data (specification page 1).

Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use the method of Fakudo in the situation wherein the size of each of the data units is one byte.

The motivation would have been to use the method with the type of CIRC disclosed by Applicant, expanding functionality:

Regarding claim 7:

It is similar to claim 3 and likewise rejected.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Saitoh (US 5,251,077) discloses a method of reading audio data nearly identical to Applicant's disclosure, except used with magnetic tape.

Tani et al. (US 6,584,177) discloses combining data units during a re-reading operation.

Sugiyama et al. (US 6,414,926) discloses re-reading data blocks at a slower velocity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Lamb whose telephone number is (572) 272-5264. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CRL 2/22/07



**TAN DINH
PRIMARY EXAMINER**

2/26/07